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99 CENTS ONLY STORES, LLC
d/b/a 99 CENTS ONLY

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

SYRIA H REGAINS,

Plaintiff,

v.

99 CENTS ONLY STORES, LLC d/b/a 99
CENTS ONLY, a foreign limited liability
company; DOES I-X, and ROE
CORPORATIONS I-X, inclusive,

Defendants.

CASE NO.: 2:22-cv-334

**DEFENDANT 99 CENTS ONLY STORES LLC d/b/a 99 CENTS ONLY'S NOTICE OF
REMOVAL OF ACTION TO UNITED STATES DISTRICT COURT UNDER 28 USC §
1441(a)**

Defendant, 99 CENTS ONLY STORES LLC d/b/a 99 CENTS ONLY, by its undersigned
attorney, LEW BRANDON, JR., ESQ., ANDREW GUZIK, ESQ., and HOMERO GONZALEZ,
ESQ., of BRANDON | SMERBER LAW FIRM, hereby removes the above-captioned case to the
United States District Court, Clark County, Nevada, where the action is now pending, pursuant
to 28 USC § 1441(a) and states as follows:

1 1. The above-entitled action was commenced in the Eighth Judicial District Court,
2 Clark County, State of Nevada on December 22, 2021, bearing Case No. A-21-845791-C. The
3 action is now pending in the Eighth Judicial District Court, Clark County, State of Nevada.

4 2. Plaintiff filed her initial complaint on or about December 22, 2021. Plaintiff's
5 Complaint fails to state that this case is one which is or has become removable. *See Harris v.*
6 *Bankers Life & Cas. Co.*, 425 F.3d 689 (9th Cir. 2005). Defendant, 99 Cents Only Stores LLC
7 filed an Answer to the initial complaint on February 14, 2022.

8 3. On February 17, 2022, Plaintiff served upon Defendant, 99 Cents Only Stores
9 LLC d/b/a 99 Cents Only, her Petition for Exemption from Arbitration, wherein Plaintiff alleges
10 that he sustained general damages of approximately Sixty-Three Thousand Six Hundred Ninety-
11 Nine Dollars & 36/100 (\$63,699.36) in past medical specials for head injury, concussion,
12 migraines, low back pain and neck pain. This Notice of Removal was filed timely as it was filed
13 within thirty (30) days of service of the Petition for Exemption from Arbitration served upon 99
14 Cents Only Stores LLC d/b/a 99 Cents Only, on February 17, 2022, which was the first motion,
15 order or other paper from which it could first be ascertained that this case is one which is or has
16 become removable. *See* 28 U.S.C. 1446(b); *Harris*, 425 F.3d 689.

17 4. Pursuant to Fed. R. Civ. P. 6 (a), the last day of the thirty (30) day period set forth
18 under 28 U.S.C. 1446(b) is March 21, 2022. *See* 28 U.S.C. 1446(b), *Harris v. Bankers Life &*
19 *Cas. Co.*, 425 F.3d 689 (9th Cir. 2005).

20 5. This action concerns an allegation that the Defendant failed to design, construct,
21 control, supervise, repair and/or maintain the property in a reasonable and safe manner, causing
22 injury to Plaintiff.
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6. At the commencement of this action and at the time of the filing of this Notice of Removal, Plaintiff, SYRIAH REGAINS, was, and now is, a citizen of the County of Clark, State of Nevada.

7. At the commencement of this action and at all times herein, Defendant, 99 CENTS ONLY STORES LLC, was, and now is, a limited liability company duly organized and existing under the laws of the County of Los Angeles, State of California with its principal place of business in California, and therefore, is a citizen of the State of California.

8. A limited liability company is a citizen of every state in which its members are citizens. *Johnson v. Columbia Props. Anchorage, LP*, 437 F.3d 894, 899 (9th Cir. 2006). Where removal from state to federal court is at issue, the party seeking removal “bears the burden of establishing federal jurisdiction” *Naffe v. Frey*, 789 F.3d 1030, 1040 (9th Cir. 2015).

9. Here, 99 CENTS ONLY STORES LLC’s sole member is NUMBER HOLDINGS, INC., a Delaware Corporation. NUMBER HOLDINGS, INC., is organized under the laws of the State of Delaware with its principal place of business in Los Angeles County, California. In short, Defendant, 99 CENTS ONLY STORES LLC, entity has its principal place of business in Los Angeles County, California and NUMBER HOLDINGS, INC., is organized under the laws of the State of Delaware with its principal place of business in Los Angeles County, California. *Id.* Thus, for purposes of diversity analysis, 99 CENTS ONLY STORES LLC, and NUMBER HOLDINGS, INC., are citizens of California and Delaware. And, Plaintiff, SYRIAH REGAIN, was, and now is, a citizen of the County of Clark, State of Nevada. Therefore, complete diversity is present.

10. Upon information and belief, Plaintiff, SYRIAH REGAIN’s general past damages are approximately Sixty-Three Thousand Six Hundred Ninety-Nine Dollars & 36/100 (\$63,699.36) in past medical specials for head injury, concussion, migraines, low back pain and

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1 neck pain with future permanent injuries. As a result, the amount in controversy exceeds Seventy-
2 Five Thousand Dollars (\$75,000.00).

3 11. The United States District Court for the District of Nevada has original
4 jurisdiction pursuant to 28 U.S.C. § 1332 in that the parties are citizens of different States and the
5 amount in controversy exceeds the sum or value of Seventy-Five Thousand Dollars (\$75,000.00)
6 exclusive of interests and costs.

7
8 12. Accordingly, Plaintiff's Complaint is removal pursuant to 28 U.S.C. 1441, which
9 provides that a defendant may remove a case over which the federal court has original jurisdiction.

10 13. A copy of all process and pleadings served upon the Defendant is attached hereto
11 as Exhibit "A."

12
13 WHEREFORE, Defendant, 99 CENTS ONLY STORES LLC d/b/a 99 CENTS ONLY,
14 respectfully requests that this action proceed in this Court as an action properly removed to it.

15 DATED this 23rd day of February 2022.

16 **BRANDON | SMERBER LAW FIRM**

17 /s/ Lew Brandon, Jr., Esq.

18 **LEW BRANDON, JR., ESQ.**

19 Nevada Bar No. 5880

20 **ANDREW GUZIK, ESQ.**

Nevada Bar No. 12758

21 **HOMERO GONZALEZ, ESQ.**

Nevada Bar No. 15231

22 139 East Warm Springs Road

Las Vegas, Nevada 89119

23 *Attorneys for Defendant,*

24 *99 CENTS ONLY STORES, LLC*

d/b/a 99 CENTS ONLY

CERTIFICATE OF SERVICE

Pursuant to FRCP 5(b), I hereby certify that on February 23, 2022, I served the foregoing
DEFENDANT 99 CENTS ONLY STORES LLC' S NOTICE OF REMOVAL OF ACTION
TO UNITED STATES DISTRICT COURT UNDER 28 USC § 1441(a) via the Court's
electronic filing and service systems to all parties on the current service list.

LAWRENCE RUIZ, ESQ.

Nevada Bar No. 11451

NICKOLAS GIORGIONE, ESQ.

Nevada Bar No. 14370

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SYRIAH REGAINS

/s/ Bonita Alexander

An Employee of BRANDON | SMERBER LAW FIRM